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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/526,042

02/28/2005

Andreas Schmidt

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10/02/2009

BAKER BOTTS L.L.P.

PATENT DEPARTMENT

98 SAN JACINTO BLVD., SUITE 1500

AUSTIN, TX 78701-4039

EXAMINER

JACKSON, JENISE E

ART UNIT

PAPER NUMBER

2439

MAIL DATE

DELIVERY MODE

10/02/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	<p>Application No. 10/526,042</p>	<p>Applicant(s) SCHMIDT ET AL.</p>	
	<p>Examiner JENISE E. JACKSON</p>	<p>Art Unit 2439</p>	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 21 September 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: _____.
- Claim(s) objected to: _____.
- Claim(s) rejected: _____.
- Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Edan Orgad/
Supervisory Patent Examiner, Art Unit 2439

Continuation of 11. does NOT place the application in condition for allowance because: The Applicant states that Bloom(2003/0131353) cannot be used to reject claims 31-33 under 102(e) because the prior art does not teach all the elements of the claims embodiment of the invention.

Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

The Applicant states that Blom's filing is December 11, 2002 and not the provisional date of December 11, 2001 of '686'. The Applicant states that provisional application was never published, and provisional does not recite the elements relied upon by the Examiner. First, the Examiner is unclear as to what the Applicant is arguing, the argument of the provisional was never published doesn't make sense. The provisional qualifies as prior art because the filing date is before the filing date of the Applicant's invention, thus using the 102(e) date. Second, the Applicant states that the provisional '686' does not recite the elements relied upon by the Examiner. The Examiner disagrees with the Applicant.

Blom et al(2003/0131353) was used in office action dated 7/21/09. The Examiner relied upon citations [0007, 0011-0012, 0014, 0085, 0121]. All of these citations relied upon by the Examiner is disclosed in the provisional '686'. Blom et al.(2003/0131353) citation 0007 is disclosed in '686'. Blom(2003/0131353) citation [0007] discloses, The following is a description of the present techniques of rights management for "content" to be used by a client. Content is generally referred to digital data objects and can be downloaded using a reliable transport protocol (such as TCP, more of which later). Blom '686' discloses a DRM system, that includes a content container that includes a content that is encrypted. Blom discloses that the content container must be transferred over reliable protocols. Blom also discloses that the content can be downloadable. Blom '686' discloses the citation of 0011 of Blom(2003/0131353). Blom(2003/0131353) discloses [0011] In the example of FIG. 1 the part containing downloadable content is referred to as a "content object" or "content container" 1. The part containing usage rights will be denoted "rights object" 2. Other synonyms of a rights object are "ticket" or "license". The content object contains the actual digital content 3 and meta-data 4. The content is most often stored in protected form, e.g. encrypted and integrity protected as symbolized by the heavy rectangle 5. The rights object contains usage rights 6, typically expressed in a rights expression language, a content cryptographic key 7, and meta-data 8. With use of the content key the protected digital content can be checked for authenticity and the clear text digital content extracted. The meta data in the content object may contain an identity of the content object, information on the actual content, name and location of the rights holder, information relevant for the rendering of the content such as relevant application or content type, reference to a location where an associated rights object could be accessed/purchased e.g. a Uniform Resource Locator (URL) to a web server hosted by the content provider/distributor. The meta-data of the rights object typically contains a reference to which content object it applies to, such as the content object identity. Blom '686' discloses a content container, a rights object, a meta-data, a ticket, and shows how the content is encrypted. Blom '686' also discloses a unique encryption key.

Blom '686' discloses the citation 0014 of Blom(2003/0131353). '353' of citation [0014] In the example shown in FIG. 2 a system for DRM of downloadable content comprises a distribution server 9, rights server 10, a client 11 and a DRM broker 12. The distribution server stores and forwards content objects and rights objects. The rights objects are purchased by a user and forwarded to the client. The rights server stores rights objects corresponding to content objects for use when purchasing rights to a previously obtained content object. The client is a device on which the content is rendered. In the client there is a DRM agent 13 to enforce the usage rules. The DRM broker is a network entity that interconnects different rights servers, possibly in different networks (not displayed), and offer a single point of contact for a client. Blom '686' discloses a content server(i.e distribution server of '353') stores and forwards the content containers. Blom '686' discloses a ticket server(i.e. rights server) which stores the tickets and forwards either to a client. Blom '686' discloses a broker which may be involved in charging and also can forward the relevant ticket or relevant ticket server address corresponding to a particular content container. Blom '686' discloses a client where rule enforcement may take place and the content is rendered.

Blom '686' discloses the citation 0085 of Blom(2003/0131353). '353' of citation 0085, This can be (or be managed by) the cryptographic information that the invention optionally specifies to be included in the streaming media initiation description. E.g. an SDP description has optional attributes for specification of media keys, as indicated in one of the previous examples. In particular such an initiation description contains only one or several RTSP URL(s) and an encryption key attribute(s) containing encryption key(s). Alternatively cryptographic keys can be conveyed in a streaming media initiation description together with any initiation description of a clear text streaming session, e.g. an SDP description without key attributes bundled with a cryptographic key, in particular one or several RTSP URL(s) and separate encryption key(s).

Blom '686' discloses streaming media, by using a SDP description of the streaming session is replacing the media in the container and is thus being encrypted. Blom '686' discloses the SDP description is used to initiate the encrypted media stream to the client with a session control protocol. Blom discloses the unique encryption key(s) for the media stream may be carried in the SDP.

Therefore, the effective priority date is December 11, 2001 of Blom, for the reasons listed above.

Claims 25-30, 34-48 fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references. Lastly, it is unclear what the Applicant's position is regarding how the claimed invention differs from the prior art since the distinguishing features aren't being clarified.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JENISE E. JACKSON whose telephone number is (571)272-3791. The examiner can normally be reached on Increased Flex time, but generally in the office M-Fri(8-4:30)..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edan Orgad can be reached on (571) 272-7884. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

September 30, 2009

/J. E. J./

Examiner, Art Unit 2439